

In the Matter of)
)
Reallocation of the 216-220 MHz) ET Docket No. 00-221
) RM-9267
) RM-9692
) RM-9797
) RM-9854

SHHH is dismayed that the FCC has been directed to auction off 216-220 MHz. Since the 1960's, concerned stakeholders have been trying to find a 'home' for assistive listening devices (ALDs). During that time we have gone through three frequency allocation changes, from 88-92 MHz, to 72-76 MHz, and then to 216-217 MHz. In each case we have been at a significant disadvantage being secondary users and having no

status in use of the frequency and subject to interference from other higher power users. Now we are faced with a greater threat of losing the use of the frequency altogether.

Consumers with Hearing Loss Need for Spectrum at 216-217 MHz

Of the 42 million Americans with disabilities, those forming the largest group are people with hearing loss. They number 28 million and, as a result of the aging of our society and noise, the group is predicted to grow substantially. Based on data from the National Center for Health Statistics, it is projected that by the year 2030, at least 21 million Americans beyond the age of 65 will be classified as having a hearing loss.

Hearing aids are the first line of defense in dealing with hearing loss and although hearing aids help at least six million people today there are certain situations where they perform less well. Therefore hearing aid users need assistive technology to “stretch” their hearing aids. Such situations might be when the speaker is a long distance from the hearing aid user; where acoustics are poor; and when there is competing background noise.

Apart from the 6 million people who use hearing aids it is estimated that 75% of those people who could benefit from hearing aids do not use them. These people, who for whatever reason do not use hearing aids but have hearing loss, also use and benefit tremendously from ALDs, without hearing aids, in a variety of situations. Hence the number of users and potential users of FM systems is large.

FM ALDs allow millions of adults and children to remain independent and function in the mainstream of society. Indeed they are mandated by the Americans with Disabilities Act (ADA) of 1990, the Rehabilitation Act of 1973, and the Individuals with Disabilities Education Act (IDEA), as a means for providing communication access in the workplace, schools, courtrooms, federally funded agencies, state and local government facilities and public accommodations. FM systems that operate in the 216-217 MHz spectrum are cutting edge in that they can be manufactured more creatively and small enough to fit on a hearing aid. This makes them extremely convenient and more attractive, especially to people of working age and teenagers. One manufacturer alone has sold over 20,000 of the “at ear” FM devices. For the first time there are some cool devices available and now they are threatened. There should be no question that ALDs are a necessary and helpful accommodation for people with hearing loss, both those who use hearing aids and those who do not.

Reallocation of the Spectrum at 216-217 MHz is in Conflict with Statutory Provisions that Encourage and Protect Services for Persons with Hearing Loss

Indeed, Congress has recognized the great need and made efforts to make assistive technology and telecommunications accessible to and usable by people with hearing loss. In addition to the statutes referred to above, Congress has enacted provisions for accessible telecommunications through Section 255, 254 and 317 of the Telecommunications Act of 1996; the Hearing Aid Compatibility Act of 1989; the TV Decoder Circuitry Act of 1989; and the Telecommunications Accessibility Enhancement Act of 1988. The FCC has reiterated these statutory obligations in several proceedings

and formulated regulations that further the intent of the laws. Reallocation of this spectrum to other uses would remove a service intended to assist people with hearing loss and would seriously impact their lives. Further it would sabotage implementation of the statutes mandating provision of ALDs. It would also go against the intent of Congress to make sure that people with disabilities are able to share in the communications revolution.

The FCC Should Elevate the Low Power Radio Service to Primary Status

The FCC asks whether any of the existing secondary services operating in this spectrum should be elevated to primary status. Our response is an overwhelming yes. In 1995, when the FCC proposed to create a new Low Power Radio Service in the 216-17 MHz band to be used by ALDs, SHHH was very supportive. Consumers with hearing loss desperately needed an alternative to the 72-76 MHz spectrum that was plagued by interference from other users. However, the proposal at that time was that ALDs share the use of the 216-217 MHz band, on a secondary non-interference basis. In our comments to the proceeding (Docket No. 95.56 RM-7784), we strongly objected to shared-use. We were convinced that it would result in degradation of the service from destructive interference from other sources rendering ALDs unusable. Given the shared-use category this would put us in a situation over which we would have no control. At that time we urged the FCC to grant primary status for the use of ALDs. Better yet, we made a plea for assigning permanent, exclusive frequencies for ALDs. This did not happen.

The spectrum at 216-217MHz is currently used for Low Power Radio Service (LPRS) and ALDs operate under the LPRS authorization. We strongly urge the FCC to elevate the LPRS to primary status. It is critical that people with hearing loss have use of a spectrum that they can rely on for interference-free operation. There would be an undue economic burden placed on a significant number of individuals and facilities (schools, courthouses, movie theaters) if the spectrum is sold. They have invested in 216-217 MHz in order to comply with the ADA and other laws. Some have been forced to abandon the interference-degraded 72-76 MHz and reinstall in the 216-217 MHz band. They cannot absorb another hit.

SHHH recommends that the FCC acts proactively and not authorize another service as co-primary users in this band. By introducing co-primary users there is a high likelihood that they would cause harmful interference to ALDs perpetuating the problem experienced by adults and children who rely on ALDs to communicate and learn.

The Public Interest Would be Served by Protecting LPRS Devices Operating in this Spectrum Band

The FCC has stated that its primary objective in reallocation of formerly government spectrum is to ensure that spectrum is put to its best and most valued use and that the greatest benefit to the public is attained. The FCC also noted that a flexible approach to allocation may not be appropriate where market forces would fail to provide for the operation of important services, such as public safety communications, or to achieve important public policy goals relating to the allocations of spectrum. The public

interest in allowing the continued use of ALDs in this band outweighs allocation of this spectrum to other possible uses.

SHHH appreciates the opportunity to comment on this notice on behalf of all people with hearing loss who rely on ALDs.

Respectfully submitted,

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